

REMARKS

Initially, Applicants appreciate the Examiner's recognition of the allowability of claims 6-7 and 18-19 once rewritten in independent form. Claims 1-29, as amended, are pending in this application for the Examiner's review. Claims 6 and 18 have been rewritten in independent form to include all the claims from which each depends, such that claims 6-7 and 18-19 now stand allowed. Claim 10 has also been rewritten in independent form by including the features of claim 1. No modification to the scope of these claims, either to enlarge or to narrow, is intended.

Claims 1 and 29 have been amended to include the feature of claim 12, whereby the apparatus of the invention includes a controlling assembly that controls the temperature of the heating surfaces by profile control whereby the temperature of the heating surfaces sensed by at least one temperature measuring device is compared at one or more regular time intervals to a preset temperature profile stored in a control memory of the controlling assembly. Claims 23 and 26 have been amended to recite a similar process feature previously recited in claims 25 and 28, which depend from each respectively. Claim 11 has been amended to depend from claim 1, while claim 12 has been amended to depend from what is now claim 10. Claim 21 has been amended to more clearly and distinctly recite that the heating layers are replaceable. Claims 25 and 28 have been amended to provide antecedent basis for a set point and to cancel language relating to features now recited in claims 23 and 26, respectively. Claim 26 has also been amended to provide improved antecedent basis for the first and second surfaces. As no new matter has been added and no new issues raised by the amendments herein, the application is believed to be in condition for allowance.

Before discussing the rejections, a brief overview of the claimed invention may be helpful to the Examiner. Excluding claims 6-7 and 18-19 which have already been allowed, most of the remaining independent claims are directed to superior heating devices and methods that accomplish their goal, preferably with a profile for heating control, by proportionally varying the voltage or time proportioning the electrical current or controlling the amplitude of the alternating current which is sent to the resistive heating elements, or both. This advantageously permits different types of food to be heated in a tailored manner to a user's taste or preferably improve the speed and quality of heating while minimizing or avoiding overdrying or burning problems that can occur when heat is uniformly applied to a non-uniform food.

Claims 26-28 were rejected under 35 U.S.C. § 112, second paragraph, for not reciting proper antecedent basis for the "first and second surfaces" on line 4 of claim 26 on page 2 of the Office Action. Claim 26 has been amended to recite at least one first and one second surface to provide proper antecedent basis. As such, the rejection under 35 U.S.C. § 112, second paragraph, is believed to be overcome and Applicants respectfully request that it be withdrawn.

Claims 1-4, 14-17, 20-24, 26-27, and 29 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,102,256 to John et al. ("John") on page 2 of the Office Action. The Office Action states that John discloses a housing with internal heating surfaces that have shaped solid mica mats with thermally and electrically insulating jackets and a concave heating surface with a stainless steel support for the heater assembly to contact substantially all food container surfaces. A sensor-based temperature control is included.

John discloses a cooking apparatus with upper and lower housings with heating elements with inner walls adapted to be moved into contact with the food container, e.g., by springs. John fails to teach proportional control by varying the voltage, current, or time proportioning the electrical current, and John also fails to teach a controlling assembly that controls the temperature of the heating surfaces by profile control whereby the temperature of the heating surfaces sensed by at least one temperature measuring device is compared at one or more regular time intervals to a preset temperature profile stored in a control memory of the controlling assembly. The Patent Office acknowledged these distinctions, recited in claims 10 and 12, respectively, but the Office Action did not impose a rejection with respect to John as to either of these claims. Thus, John fails to teach each and every recited feature of the presently recited claims. As such, the rejection under 35 U.S.C. § 102(b) has been overcome and should be withdrawn.

Claims 5, 8-13, 25, and 28 are rejected under 35 U.S.C. § 103(a) as being obvious over John in view of U.S. Patent No. 3,974,358 to Goltsos ("Goltsos") on pages 2-3 of the Office Action. The Office Action states that John does not teach individual heating zones, power densities of 0.45 to 1.2 W/m², memory-based time sampling control to maintain set points, high power density warm-ups and low power density maintenance. Instead, the Office Action relies on Goltsos to teach individual heating zones, and high power density warm-ups, and low power density maintenance, and that it would have been obvious to modify John and Goltsos to achieve the recited power densities and heating regimes to improve the versatility of the device.

Goltsos fails to remedy the deficiencies of John previously discussed herein. Goltsos teaches a portable food heating device that includes a thermostat designed to actuate when the food has reached a predetermined temperature, at which time the foods will have been "fully heat conditioned." The thermostat may be connected to completely shut off all further power to the device, or it may be connected to completely shut off some of the heating elements and to enable some of the resistive elements to continue operating (Col. 5, lines 19 to 33).

Claims 1, 12, and 29 of the present invention, however, each recite a controlling assembly that controls the temperature of the heating surfaces by profile control whereby the temperature of the heating surfaces sensed by at least one temperature measuring device is compared at one or more regular time intervals to a preset temperature profile stored in a control memory of the controlling assembly. Claims 23 and 26 presently recite that the superior heating of the claimed invention is achieved by controlling the temperature of the heating surfaces by profile control whereby the temperature of the heating surfaces sensed by at least one temperature measuring device is compared at one or more regular time intervals to a preset temperature profile. Thus, the claimed device and methods are adapted to initially heat according to a profile, *e.g.*, one desirably selected based on user preference, or based on the type of food. According to Goltsos's device, however, once the food is cooked or heat conditioned, a thermostat in the Goltsos device completely turns off enough of the heating elements to avoid further "heat conditioning." Thus, Goltsos completely fails to disclose or even suggest the profile control presently recited in claims 1, 12, 23, 26, and 29, instead preferring to fully heat to the maximum available power. Even the combination of John and Goltsos fails to teach the claimed profile control for a control assembly.

Moreover, claims 10, 25, and 28 each recite proportional control of the heating elements. This is also not disclosed or suggested by Goltsos, which again is directed to a full power initial heating followed by lower power achieved by using a portion of the total number of resistive elements. Goltsos fails to teach that some or all of the resistive elements can be operated by varying the voltage, time proportioning the electrical current, or controlling the amplitude of the alternating current that is sent to the resistive heating elements, as presently recited. John also does not teach this feature, as previously discussed. Thus, for this additional reason, claims 10, 25 and 28 are also separately patentable compared to even the combination of the cited references. For these reasons, Applicants respectfully

request that the rejection under 35 U.S.C. § 103(a) be reconsidered and withdrawn, as no *prima facie* case of obviousness has been stated.

In view of the above, all rejections are believed to have been overcome and should be reconsidered and withdrawn. Accordingly, the entire application is believed to be in condition for allowance, early notice of which would be appreciated. Should the Examiner not agree, then a personal or telephonic interview is respectfully requested to discuss any remaining issues and expedite the eventual allowance of the claims.

Respectfully submitted,

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